

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/583,501	Applicant(s) FUJIKAWA ET AL.
	Examiner GALINA YUSHINA	Art Unit 2811

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 August 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): of Claims 10-17 and 19.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 10-17 and 19.
Claim(s) objected to: _____.
Claim(s) rejected: 1-9 and 18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Colleen A Matthews/
Primary Examiner, Art Unit 2811

Continuation of 11 does NOT place the application in condition for allowance because: Though the Examiner reconsidered prior art and agreed with the Applicant's arguments about Claim 10, finding it patentable (as well as Claims 11-17 and 19, which depend on Claim 10), the Examiner maintains the position that Claim 1 is obvious over prior art.

The reason for indicating an allowable subject matter in Claim 10 is the following: Prior art of record fails to anticipate or render obvious either alone or in combination the claimed limitations including "a buffer layer of a second conductivity type formed on the channel region in the first conductivity type first semiconductor layer", in conjunction with: "a first conductivity type first semiconductor layer having a substantially flat cross-sectional shape and having a channel layer", and in conjunction with: "a second conductivity type doped region extending into the first conductivity type first semiconductor layer to a top surface of the buffer layer, but not extending through the buffer layer".

Re (REMARKS, page 10, paragraphs 3-6, and page 11): The Examiner's proposed modification of Shur (Fig. 5L) in view of Hase (Fig. 5) did not suggest extending Shur's second conductivity doped region 6 into region 4, but suggested extending region 6 into a portion of buffer layer 5 - the same way as the Hase' second conductivity doped region 15c is extended into a portion of layer 15b. Since a first conductivity type first semiconductor layer of Shur includes layer 3 which surrounds the buffer layer 5, extension of the second conductivity type doped region 6 into a portion of layer 5 creates a structure wherein region 6 is extended into the first conductivity type first semiconductor layer (e.g., in layer 3) to a top surface of the buffer layer 5 but is not extended through the buffer layer 5.

Re (REMARKS, page 12, paragraphs 1-3): The Applicant's proposed withdrawal rejections of Claims 2-9 and 18 due to their dependence from Claim 1 is not found persuasive since the Examiner maintains a position that Claim 1 is obvious over prior art.

The Examiner provided Notice of Reference Cited, Supplementary, showing a reference, US 6,365,925 (Hase), that was omitted from the previous Notice of Reference Cited. In addition, the Examiner showed in this Notice of Reference Cited, Supplementary, that patent EP 555886 is associated with Europe, not with Japan, as was shown earlier.